IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 7727 of 1999

to

FIRST APPEALNo 7731 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL
and
Hon'ble MR.JUSTICE SHARAD D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

BECHARBHAI JETHABHAI PATEL

Appearance:

1. First Appeal No. 7727 of 1999

GOVERNMENT PLEADER for Petitioner No. 1

MR VASANT S SHAH for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE B.C.PATEL

and

MR.JUSTICE SHARAD D.DAVE

Date of decision: 05/10/2001

C.A.V.JUDGEMENT

(Per : MR.JUSTICE SHARAD D.DAVE)

1. These appeals are preferred by the State against the common award rendered by the Assistant Judge, Sabarkantha at Himatnagar in Land Reference Case Nos. 3003/89 to 3007/89 on 9.10.98, awarding the compensation for the lands to the claimants at the rate of Rs.1,000/per Are inclusive of the compensation already awarded by the Special Land Acquisition Officer for all the types of lands.

2. Notification under Sec. 4 of the Land Acquisition Act (hereinafter referred to as the Act) was published on 1.3.80 for acquiring the lands of the claimants. After following the procedure, notification under Sec. 6 of the Act was published and thereafter, the Land Acquisition Officer by a common award dated 6.3.84 held that the claimants are entitled to get compensation at the rate of Rs.75/- per Are for non-irrigated lands and at the rate of Rs.125/- per Are for irrigated lands and Rs.150/- per Are for Kyari land. The claimants, being aggrieved, sought references and ultimately the references were placed before the Assistant Judge, Sabarkantha at Himatnagar,who disposed of the same by a common award. The State, being aggrieved by the aforesaid award, preferred these appeals contending that the award made by the Reference Court is excessive.

3. Jagdishbhai Becharbhai was examined on behalf of the applicants. He was cultivating the land covered under Land Reference Case No. 3007/89. He has stated that the lands of village Demai are better than village Bayad, the lands of which were also acquired for the purpose of Railway Line. The Land Acquisition Case was filed for those lands being L.A.R.No. 3268/89 and the Reference Court awarded Rs.40/- per sq.mtr. for those lands. The said judgment was produced before the Reference Court at exh. 49. The witness has admitted in his deposition that village Bayad is more developed than village Demai where his lands are situated.

4. It is required to be noted that the State has not produced any oral or documentary evidence to controvert the evidence of the claimants. The Reference Court,

therefore, relied on the deposition of Jagdishbhai Becharbhai and also took into consideration the judgment at exh. 49 in determining the award. The Reference Court also keeping in mind the admission of the witness that the lands covered vide exh. 49 are of more developed village than the present village, deducted 25% amount from that award and further looking to the different dates of notifications deducted 50% from the award and finally came to the conclusion that Rs.10/- per sq.mtr. should be awarded in all for all types of lands. We are of the opinion that in absence of any type of evidence from the State, the Reference Court has come to this conclusion. Therefore, we do not intend to interfere with the award of the Reference Court and hence dismiss these appeals.

(B.C.PATEL, J)

(SHARAD D DAVE, J)

srilatha